IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.97 OF 1989

Sudam Janardhan Katekar, since
deceased through his LRs :-

a. Krishna Sudam Katekar,
b. Sakhrubai Sudam Katekar,
c. Gajanan Sudam katekar,
d. Minnath Sudam Katekar,
e. Ashok Sudam Katekar,
f. Nakul Sudam Katekar,
g. Sau.Radhabai Janardhan Patil,
h. Sau.Anjana Kashinath Patil,
i. Sau.Sulochana Sakharam Mali,
j. Sau.Nirmala Nitin Gharat
k. Sau.Asha Manohar Keni — Appellants
R/o.Dapoli, Tal.Panvel,
Dist. Raigad.

versus

State of Maharashtra — Respondent

Mr.N.J.Patil for appellants.
Mr.A.R.Patil, AGP for respondent.

ALONG WITH
FIRST APPEAL NO.382 OF 1989

State of Maharashtra — Appellant

versus

Sudam Janardhan Katekar, since
deceased through his LRs :-

a. Krishna Sudam Katekar,
b. Sakhrubai Sudam Katekar,
c. Gajanan Sudam katekar,
d. Minnath Sudam Katekar,
e. Ashok Sudam Katekar,
f. Nakul Sudam Katekar,
g. Sau.Radhabai Janardhan Patil,
h. Sau.Anjana Kashinath Patil,
i. Sau.Sulochana Sakharam Mali,
j. Sau.Nirmala Nitin Gharat
k. Sau.Asha Manohar Keni — Respondents
R/o.Dapoli, Tal.Panvel,
Dist. Raigad.

Mr.S.N.Gawade, AGP for appellant.

Mr.N.J.Patil for respondents.

CORAM : A.S.OKA, J.

DATE : 07th February 2007

ORAL JUDGMENT :-

1. These appeals can conveniently be disposed of by a common judgement and order as both theappeals arise out of the judgement and award dated 30th January 1988 passed by the learned Civil Judge, Senior Division, Raigad, at Alibag in a reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

2. The reference relates to an agricultural land situated at Village Dapoli, Taluka Panvel, District Raigad totally admeasuring about 20,000 sq.mtrs.. A Notification u/s 4 of the said Act was issued on 3rd February 1970. The purpose of acquisition was development of a Satellite City of Navi Mumbai. The award was made u/s 11 of the said Act on 4th July 1986. By the impugned judgement and award, the market value of the acquired land was fixed at Rs.5/- per sq. meter by the Reference Court. First Appeal No.97 of 1989 is preferred by the original claimants for claiming further enhancement in the market value and the First Appeal No.382 of 1989 is preferred by the State of Maharashtra for reduction in the market value.

3. The learned advocate appearing for the legal representatives of the original claimants has invited my attention to the decision of Division Bench of this Court (Coram : P.S.Patankar and P.V.Kakde, JJ.) dated 18th July 2001 in First Appeal No. 462 of 1990 and other connected appeals. The Division Bench was dealing with a group of appeals arising out of references under Section 18 of the said Act in respect of lands at Village Dapoli, Taluka Panvel. The lands which were subject matter of appeals before the Division Bench were also notified u/s 4 of the said Act on 3rd February 1970 for the purposes of development of Satellite City of Navi Mumbai. In the case before the Division Bench the reference Court had fixed

the market value @ Rs.5/- per sq.meters.

4. The Division Bench considered the fact that the village Dapoli is located in the proximity of Panvel area which has tremendous infrastructural facilities and N.A.potentiality. Considering various factors such as proximity of village Dapoli to Mumbai, Panvel and Uran urban centre and considering various infrastructural facilities available nearby the village, the Division Bench came to the conclusion that the market value of the acquired lands at village Dapoli was Rs.10/- per sq.meter.

5. In my view, the decision of the Division Bench in the aforesaid case is certainly relevant for deciding these appeals, as the decision of the Division Bench has admittedly attained finality. It is not in dispute that vast track of lands in village Dapoli and other adjoining villages in Taluka Panvel were acquired under a notification dated 3rd February 1970 for the same public purpose.

6. The claimants examined one Shri Manohar Vaidya, an Architect. He produced his report and a map drawn by him in evidence and both the documents were exhibited. He has described the location of the acquired land in his report. Considering his evidence, in my view, the market value of the acquired land on the relevant date i.e. 3rd February 1970 can be taken at Rs.10/- per sq.mtr. in view of the aforesaid decision of the Division Bench. However, in the present case, the acquisition relates to a very large plot of agricultural land. The area is about 20,000 sq.mtrs.. Therefore, some deduction will have to be made on account of development charges. Following the decision of Division Bench of this Court dated 16th March 2000 in First Appeal No.875 of 1985, I find that the deduction of 10% will be adequate in the present case. Thus, after making deduction, the market value will have to be fixed at Rs.9/- (Rs.Nine only) per square meter. As the award u/s 11 has been made on 4th July 1986, there cannot be any dispute regarding grant of statutory benefits. Hence I pass following order.

7. ORDER :-

FIRST APPEAL NO.382 OF 1989

The appeal is dismissed. The appellant State will pay costs of the appeal to the respondents therein.

FIRST APPEAL No.97 of 1989

(i) The impugned judgement and award is modified and it is held that the appellants/ claimants in First Appeal No.97 of 1989 (Land Acquisition Reference No.80 of 1986) are entitled to market value of Rs.9/- (Rs.Nine only) per square meter;

(ii) In addition to market value @ Rs.9/- per square meter, the appellants/claimants are entitled to statutory benefits u/s 23(1-A), Section 23(2) and Section 28 of the Land Acquisition Act, 1894;

(iii) The reference Court to calculate the amount of compensation payable to the claimants in the light of this judgement within a period of four months from the date on which the writ of this order is received by the reference Court;

(iv) The claimants will be entitled to proportionate costs of the reference as well as this first appeal;

(v) First Appeal No.97 of 1989 is partly allowed in the above terms;

(vi) Writ to be sent immediately.

(A.S.OKA, J.)